

REMARKS

Claims 1-23, 25-27, 29-31 and 33 are pending in this application. Claims 1, 4, 18 and 21-23 are the independent claims. By this Amendment, claims 1, 4, 18 and 21-23 are amended. No new matter is added.

Interview

An interview was conducted on January 9, 2009, between Applicant's representative and Examiner Nguyen. During the interview the objections to the specification and the rejections under 35 USC §112 were discussed. It was agreed that the elements of the claims, as recited herein, comply with the requirements of 35 USC, first paragraph, and second paragraph, and remove the objections to the specification. It was also agreed that the claims as recited herein distinguish over the applied references.

Objections to the Specification

The specification is objected to for allegedly failing to provide proper antecedent basis for the claimed subject matter. As discussed during the interview, the claims find support in the specification so that the meaning of the terms in the claims is ascertainable by reference to the description.

For example, during the interview the claim feature of "face sides formed by front sides at edges on ends of the sections" were agreed to be shown at least at Fig. 15a, (24a, 24b) and described at least at pages 17 and 29 of the specification.

It was also agreed during the interview that support for "a marginal region of the can bottom is adapted to the shape of the restriction and a marginal face side of the bottom is a marginal edge of the bottom" and "wherein one of the marginal face side of the bottom and the face side of the can shell at the bottom is inside of the can and the other one of the marginal face side of the bottom and the face side of the can shell at the bottom is outside the can" are shown at least at Figs. 14, (15b and 16) and described at least at pages 29 and 30 of the specification. Therefore, withdrawal of the objection is respectfully requested.

Claim Rejections Under 35 USC §112

Claims 1-23, 25-27, 29-31 and 33 are rejected under 35 U.S.C. §112, first paragraph, second paragraph, for allegedly failing to comply with the written description requirement and for allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The rejections are respectfully traversed.

As discussed and agreed during the interview, the rejected claims, as recited herein, comply with the written description requirement and distinctly claim the subject matter Applicant regards as the invention.

For example, during the interview the claim feature of “face sides formed by front sides at edges on ends of the sections” were agreed to be shown at least at Fig. 15a, (24a, 24b) and described at least at pages 17 and 29 of the specification.

It was also agreed during the interview that support for “a marginal region of the can bottom is adapted to the shape of the restriction and a marginal face side of the bottom is a marginal edge of the bottom” and “wherein one of the marginal face side of the bottom and the face side of the can shell at the bottom is inside of the can and the other one of the marginal face side of the bottom and the face side of the can shell at the bottom is outside the can” are shown at least at Figs. 14, (15b and 16) and described at least at pages 29 and 30 of the specification.

As the claims as recited herein are agreed to comply with the requirements of 35 U.S.C. §112, first paragraph, and second paragraph, withdrawal of the rejections are respectfully requested.

Claim Rejections Under 35 USC §103

Claims 1-4, 7-12, 14, 15, 18-20, 27, 30, 31 and 33 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 3,337,944 to Morris in view of U.S. Patent No. 5,186,592 to Budenbender and U.S. Patent No. 4,315,132 to Saurin, et al. (Saurin). The rejection is respectfully traversed.

As discussed and agreed during the interview, the claims as recited herein distinguish over the combination of the applied references. For example, Morris discloses a method and apparatus for forming lengths of tubing of sheet metal. The lengths of tubing are cut to form can bodies 52.

Thus, Morris fails to disclose or suggest, each of the sections have the length of a desired can height and include face sides formed by front sides at edges on ends of each of the sections.

In addition to the above deficiency of Morris, it is admitted in the Office Action that Morris is silent regarding forming a cross-sectional restriction and attaching a closure member.

In an effort to overcome the admitted deficiencies, it is alleged that it would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify Morris with the teachings of Budenbender.

Budenbender relates to a sheetmetal container having the shape of a barrel or drum and a pair of end closures attached (col. 1, lines 6-11). A drum body 1 receives a closure 3. The closure 3 includes an edge bead 4, transition region 6 and a floor 8 (Fig. 1). It is alleged in the Office Action that the drum body 1 corresponds to the claimed “can shell” and that a bulge in the floor 8 is a cross-sectional restriction in the can shell. However, as clearly shown in Fig. 1, and described in the specification of Budenbender, the closure 3 is not a can shell. Thus, Budenbender fails to disclose or suggest “forming the sections to can shells with at least one cross-sectional restriction at least at one face side of the can shells.”

Moreover, although Fig. 1 of Budenbender shows a corrugation 5 in the drum body 1, the corrugation 5 is not “at one face side of the can shell, the face side of the can shell formed by a front side at an edge on an end of the can shells, as recited in the amended claims.” In Budenbender the corrugation 5 is shown as being on a side wall of the drum body 1. Thus, the corrugation 5 is not at a face side “formed by front sides at edges on ends” of the can shell. Accordingly, Budenbender fails to disclose or suggest the feature as alleged in the Office Action.

It is alleged in the Office Action that the “shoulder shaped restriction” 5 in Budenbender (Fig. 1) corresponds to the claimed restriction formed in the can shell. However, as clearly described in Budenbender, the “shoulder shaped restriction” is in the closure 3 and is not formed in the alleged can shell (i.e., drum body 1).

Budenbender also fails to disclose or suggest, “one of the marginal face side of the bottom and the face side of the can shell at the bottom is inside of the can and the other one of the marginal face side of the bottom and the face side of the can shell at the bottom is outside of the can,” as recited in each of the independent claims as amended.

Finally, as agreed during the interview, none of the applied references, whether considered alone or in combination, disclose or suggest, forming the sections to can shells with

at least one cross-sectional restriction from an enlarged cross-section to a smaller cross-section at least at one face side of the can shells.

It is further alleged in the Office Action that one of ordinary skill in the art would have been motivated to weld the tube of Morris using a weld technique taught by Saurin. Applicant submits that even were the tube of Morris welded according to the technique of Saurin, the combination of references fails to render the rejected claims obvious because Saurin fails to overcome the deficiencies of Morris and Budenbender discussed above.

As the combination of references, whether considered alone or in combination, fail to disclose or suggest all of the features of the rejected claims, withdrawal of the rejection is respectfully requested.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morris, Budenbender and Saurin in view of U.S. Patent No. 3,526,186 to Cornelius. The rejection is respectfully traversed.

Claims 5 and 6 are allowable for their dependency on independent claim 1 for the reasons discussed above, as well as for the additional features recited therein. Moreover, as Cornelius does not overcome the deficiencies of Morris, Budenbender and Saurin, the combination of references fails to render the rejected claims obvious. Therefore, withdrawal of the rejection is respectfully requested.

Claim 16 is rejected under 35 U.S.C. §103(a) as being unpatentable over Morris, Budenbender and Saurin in view of U.S. Patent No. 6,389,866 to Radtke. The rejection is respectfully traversed.

Claim 16 is allowable for its dependency on independent claim 1 for the reasons discussed above, as well as for the additional features recited therein. For example, Radtke discloses press fitting a mounting cup 10 to an aerosol can body by aligning a series of grooves and dimples formed on respective surfaces. Thus, Radtke does not disclose or suggest “an upper closure member together with a valve is attached to the can shell by laser welding,” as recited in claim 16.

It is alleged that it would have been obvious to modify Morris to include an aerosol can top as disclosed in Radtke and attach the top by laser welding because Applicant allegedly fails to state any particular purpose for laser welding. As the purpose for laser welding is clearly

stated throughout the specification of the present application, there is no motivation or suggestion to combine the references as proposed.

As Radtke does not overcome the deficiencies of Morris, Budenbender and Saurin, the combination of references fails to render the rejected claims obvious. Therefore, withdrawal of the rejection is respectfully requested.

Claims 21, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Budenbender, Morris and Saurin. Claims 22 and 23 are rejected under 35 U.S.C. §103(a) as being unpatentable over Morris, Budenbender in view of Radtke. The rejections are respectfully traversed.

The combination of references fails to disclose or suggest all of the features recited in the rejected claims. For example, as discussed above, none of the Budenbender, Morris and Saurin disclose or suggest “a cross-sectional restriction at least at one face side of the can shell” and “one of the marginal face side of the bottom and the face side of the can shell at the bottom is inside of the can and the other one of the marginal face side of the bottom and the face side of the can shell at the bottom is outside of the can,” as recited in independent claim 21 as amended.

Further, claims 25 and 26 are allowable for their dependency on independent claim 21 for the reasons discussed above, as well as for the additional features recited therein.

As none of the combination of references fails to disclose or suggest the claimed features, withdrawal of the rejection is respectfully traversed.

CONCLUSION

In view of the above remarks and amendments, the Applicants respectfully submit that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John W. Fitzpatrick, Reg. No. 41,018, at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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